

CHAPTER 725
Entertainment Devices and Entertainment Device Arcades

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725.01 PURPOSE.

The purpose of this section is to establish laws to insure that businesses that have amusement devices and/or similar devices or machines comply with building department regulations. These business regulations are necessary for the health, safety, and welfare of the City and public. This Ordinance also requires compliance with tax laws. Compliance with this ordinance does not insure that the business is in compliance with State laws, including but not limited to, Ohio Revised Code Section 2915.01, and/or other Parma Codified Ordinances, including but not limited to, Parma Codified Ordinance Chapter 624.

725.02 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) "Entertainment device arcade" means any business, establishment, room, or place where four or more entertainment devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premises or at the same time or a later time. Entertainment device arcade does not include a business establishment that has devices designed for and played by children (under 18) where the participant receives no and/or nominal consideration. These children amusement devices are covered under Parma Codified Ordinance Chapter 721.
- (b) "Entertainment devices" means any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose

of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment device" does not include any juke box, audio book, video player, vending machines and telephones, or any device that gives anything of value where the only value given to the consumer, directly or indirectly, is a video or audio transmission.

- (c) "Anything of value" means cash, cash equivalents, tangible objects, credits to play, and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.
- (d) "Operator" means any person or organization that owns, controls, operates, promotes or maintains or knowingly engages in conduct that facilitates the operation of an entertainment device arcade or the entertainment devices in an entertainment device arcade.

725.03 LICENSE APPLICATION; REQUIREMENTS.

(a) No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade without first obtaining a license therefore from the Building Commissioner. Every person, partnership, corporation, organization or other entity shall make an application in writing to the Building Commissioner, which application shall set forth:

- (1) The name under which the business is to be conducted;
- (2) The location where the business is conducted, with a description of the premises, including a scaled diagram;
- (3) The name and address of any manager, supervisor, and all other employees;
- (4) The name and address of the owner or owners of the entertainment devices; and,
- (5) The name, address, and principal occupation of every person with an interest in the business. If the business is conducted by:
 - a. A sole proprietorship, the name, home address, and principal occupation of that individual.
 - b. A firm or partnership, the names, home addresses, and principal occupations of each member of the firm or partnership.

- c. A corporation, the names, home addresses, and principal occupations of all officers and shareholders and the statutory agent.
- (6) The name, description, model number and serial number of each entertainment device on the premises and any other device on the premises that is necessary to the operation of the entertainment device.
- (7)
 - a. A list of each separate prize that may be given out and each separate dollar amount that may be given; and;
 - b. The odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in an entertainment device or participating in any other activity or promotion in the entertainment device arcade, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
- (8) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the licensee's entertainment devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.
- (9) The tax account number and a certificate of registration from the City of Parma Tax Division.

(b) The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the Director of Public Safety as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade at any time unless the information on file with the Director of Public Safety is current and accurately reports the licensing information at the time of operation.

(c) If an application is not approved, the Building Commissioner shall notify the applicant in writing, with reasons for rejection.

(d) The Building Commissioner shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Division to seek and obtain the approval of said agency.

(e) The entertainment device arcade shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times that the arcade is open for business. No operator shall fail to immediately permit entry to any such city officials.

(f) Failure to register or pay a license fee for an entertainment device shall be grounds for suspension or revocation of the license for the entertainment device arcade and said device shall be seized and forfeited to the City.

725.04 LOCATION.

(a) No license shall be granted to an entertainment device arcade that will conduct its business at a location that is within five hundred feet from the boundaries of a parcel of real estate having situated on it a school, public library, church, playground, or any establishment that has been issued a liquor permit by the State of Ohio.

(b) This section shall not apply to any entertainment device arcade locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed entertainment device arcade locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within five hundred feet of said entertainment device arcade. However, any change in ownership of the entertainment device arcade or change in location will remove said entertainment device arcade from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, or public playground moves within five hundred feet of said entertainment device arcade.

(c) The Entertainment Device Arcade may only be located in Shopping Center District Locations.

(d) The location must comply with the zoning regulations of the Parma Codified Ordinances.

725.05 LICENSE FEE; TRANSFER; DISPLAY.

(a) The license fee, payable to the City at the time of application, shall be \$1,500.00 for each business location for the year or any part thereof ending on December 31st of each year and \$250.00 for each entertainment device on the premises for each year or any part thereof ending on the last day of each year. The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each entertainment device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

(b) Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must

be so placed as to be made conspicuously visible and shall list each entertainment device with serial number.

(c) Failure to register any entertainment device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of \$100.00 for each day the machine is not registered, and said fine shall not be reduced or suspended.

725.06 REVOCATION; HEARING PROCEDURE.

(a) The license may be suspended or revoked at any time by the Building Commissioner on satisfactory proof that violation of the laws of the state, ordinances of the City, or of this Chapter occur on the premises. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than \$100.00 nor more than \$250.00 for any violation of this Chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees by the City is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this Chapter or other city, state or federal laws.

(b) Any resident of the City may submit a written notice of complaint to the Building Commissioner in regard to any entertainment device arcade location. The notice of complaint will include the name and address of the resident, the address of the location, and the specific reasons why the resident is complaining. The Building Commissioner or a designee from law enforcement shall regularly inspect the premises, the operation, the entertainment devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

(c) The Building Commissioner or the designee from law enforcement shall meet with the complainant and inquire as to the specific reasons for the complaint. The Director of Public Safety or its designee may dismiss the complaint if it is determined that:

- (1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license;
- (2) There are not substantial credible facts to support the complaint by the resident.

(d) No appeal shall lie from the decision of the Building Commissioner to dismiss a complaint.

(e) If the complaint is not dismissed by the Building Commissioner, the Commissioner will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Building Commissioner and the Commissioner may request the assistance of any person in law enforcement to assist in the investigation. The Building Commissioner and its designee and any law enforcement officer shall have access to the premises and the records of the licensee during all times that the entertainment devices are available for play.

(f) At the time of the conference, the resident, the licensee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the resident, licensee, and the owner can reach an amicable solution, the Building Commissioner will direct the licensee to comply with the solution in his notice of reconciliation.

(g) If the parties cannot agree upon an amicable solution to the problem, the Building Commissioner will transmit the complaint, together with its recommendation thereon, to the Director of Public Safety. The Director of Public Safety's recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

(h) The Director of Public Safety may accept, reject, or modify the recommendation of the Director of Public Safety. The resident, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the Director of Public Safety is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint before the Director of Public Safety shall be a public hearing which shall be held within thirty days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Director of Public Safety shall enter its decision the day of hearing. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of R.C. Chapter 2506.

(j) The complaint process is separate and distinct from any law enforcement action taken to enforce the laws of the state or the city and this article, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

(k) The Director of Public Safety shall be the final decision maker for the City and additional appeals shall be made to a court of competent jurisdiction.

725.07 CLOSING HOURS.

No operator of an entertainment device arcade shall permit the same to be or remain open between the hours of 11:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any entertainment device between the hours of 11:00 p.m. and 10:00 a.m. of the next day.

725.08 MISCELLANEOUS OPERATING REQUIREMENTS.

(a) Any entertainment device arcade shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the entertainment devices during all hours of operation.

(b) The interior of the entertainment device arcade shall provide a minimum area of 100 square feet per entertainment device in each room in which entertainment devices are located.

(c) No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of an entertainment device arcade.

(d) No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

(e) No persons under the age of eighteen years shall be permitted on the premises of any entertainment device arcade.

(f) The operator shall require a photo identification of every person to whom anything of value is given in connection with the entertainment device arcade and shall record the person's name and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if any entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. If the dollar value of the thing given to a person is more than ten dollars, the operator shall include in the record a copy of the photo identification and the person's social security number. By the second Tuesday of each month, the operator shall cause to be delivered to the City Income Tax Department a copy of the record of things given to persons together with the above-required information given during the preceding month. The operator and the Income Tax Division shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

(g) The operator shall post in a conspicuous place on the premises in the room where the entertainment devices are located in no less than twenty point type:

- (1) Each separate prize that may be given and each separate dollar amount that might be given;
- (2) The odds as stated in the filing with Director of Public Safety, as required in Section 725.03(a)(7)(b).
- (3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.

(h) The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records more than ten years old are excepted from this requirement.

(i) No applicant shall make a false or incorrect statement in an application for an entertainment device arcade license and no operator shall fail to update the information supplied to the Director of Public Safety to reflect existing operations as required in Section 725.03.

(j) Failure to possess a valid Certificate of Registration from the City of Parma Income Tax Department shall be cause for suspension of the entertainment device arcade license. The Certificate of Registration may be revoked by the Income Tax Department for failure by the licensee to remain

current in the filing of required tax documents, for failure to remain current in the required payment of taxes, and for failure to comply with Chapter 183 of the Parma Codified Ordinances.

(k) It is the intent of this Chapter that operators are strictly liable for any violations of this article.

725.09 SEVERABILITY.

In the event any provision of any sections of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

725.99 PENALTY.

(a) Minor misdemeanor. Whoever violates or fails to comply with any of the provisions of this Chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than \$50.00 for each offense, said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Failure to obtain or operating without a license. Whoever violates or fails to comply with the requirements to obtain a license for an entertainment device arcade or an entertainment device as provided in this Chapter is guilty of a misdemeanor of the fourth degree and shall be fined a mandatory fine of \$250.00, and/or imprisoned not more than 30 days or both, for each offense, provided said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.